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Attorneys for Plaintiff
The Central Institute for Experimental Animals

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

THE CENTRAL INSTITUTE FOR
EXPERIMENTAL ANIMALS, a Japanese
corporation,

Plaintiff,

vs.

THE JACKSON LABORATORY, a Maine
corporation,

Defendant.

Case No. CV 08-5568 RMW

**STIPULATION TO EXTEND TIME FOR
THE EXCHANGE OF PROPOSED
TERMS FOR CONSTRUCTION AND
OTHER UPCOMING DEADLINES
AND ORDER**

In accordance with Civil L.R. 6-2, Plaintiff, The Central Institute For Experimental Animals
("CIEA") and Defendant The Jackson Laboratory ("Jackson") stipulate as follows:

WHEREAS, CIEA filed a complaint in this action on or about December 12, 2008;

WHEREAS, the parties agreed to a 30-day extension, from January 12 to February 11,
2009, for Jackson to answer or otherwise respond to the complaint;

WHEREAS, Jackson filed an answer and counterclaims on February 11, 2009;

WHEREAS, CIEA filed a reply to Jackson's counterclaims on March 6, 2009;

WHEREAS, on March 12, 2009, the Clerk of the Court issued a Reassignment Order pursuant to which this action was reassigned from Magistrate Judge Patricia Trumbull to Judge Ronald M. Whyte for all further proceedings;

WHEREAS, on March 17, 2009, the Court served Notice that a Case Management Conference had been scheduled for April 17, 2009 before Judge Ronald M. Whyte;

WHEREAS, because of the intervening Passover holiday, and various scheduling conflicts, the parties mutually agreed to appear for a case management conference that was held on June 5, 2009;

WHEREAS, the parties submitted a Proposed Scheduling Order on June 11, 2009 which the Court has not yet signed;

WHEREAS, the parties exchanged Infringement Contentions on June 19, 2009;

WHEREAS, the parties exchanged Invalidity Contentions on August 3, 2009;

WHEREAS, the parties mutually agreed to reschedule the Mediation from August 12 to September 2, 2009 to accommodate Jackson's counsel, Michael Rader, requiring surgery during the month of August 2009;

WHEREAS, the parties agreed to a two (2) week extension of time to serve the Patent L.R. 4-1 Proposed Terms for Construction, from August 17 to August 31, 2009 due to the illness of CIEA's counsel, Ronald Daignault, who was responsible for the day-to-day management of the present Action for CIEA, and until recently was under hospital care (the Declaration of Richard Eskew, dated August 18, 2009, set forth facts relevant to Mr. Daignault's condition):

WHEREAS, the parties also agreed to reschedule the Mediation from September 2, 2009 to a mutually agreed upon date to be determined, and are in the process of determining a final date for the Mediation;

WHEREAS, as a result of Mr. Daignault's continued illness, counsel for Plaintiff CIEA has met and conferred with counsel for Jackson and counsel for Jackson stipulates to an additional one

(1) week extension of time for the exchange of Patent L.R. 4-1 Proposed Terms for Construction (and related dates as set forth in the revised schedule presented below);

1. Patent L.R. 4-2 exchange of Preliminary Claim Constructions and Extrinsic Evidence from September 21 to September 29, 2009;

2. Patent L.R. 4-3 exchange of Joint Claim Construction and Prehearing Statement from October 9 to October 16, 2009;

3. Letters in support of leave to file summary judgment motion (addressing whether the proposed motion is dictated solely by claim construction and no disputed issues of material fact; 5-page limit per party) from October 9 to October 16, 2009; and

4. Responsive letter(s) regarding leave to file summary judgment motion (3-page limit per party) from October 16 to October 23, 2009;

5. Patent L.R. 4-4 completion of claim construction discovery from November 2 to November 9, 2009;

6. Patent L.R. 4-5(a) exchange of opening claim construction briefs (by CIEA as to the '055 patent and by Jackson as to the '173 patent) (and if applicable, combined with summary-judgment brief) from November 16 to November 20, 2009;

7. Patent L.R. 4-5(b) exchange of responsive claim construction briefs (by Jackson as to the '055 patent and by CIEA as to the '173 patent) (and if applicable, combined with responsive summary-judgment brief) from November 30 to December 7, 2009;

8. Patent L.R. 4-5(c) exchange of reply claim construction briefs (by CIEA as to the '055 patent and by Jackson as to the '173 patent) (and if applicable, combined with reply summary-judgment brief) from December 9 to December 16, 2009;

9. The technology tutorial (1.5 hours per party) will remain on January 26, 2010; and

10. The Patent L.R. 4-6 Claim Construction Hearing (and if applicable, combined with summary-judgment hearing) will remain on January 26-27, 2010.

NOW THEREFORE, IT IS HEREBY STIPULATED by and between counsel for the parties as follows:

1. The exchange of Patent L.R. 4-1 Proposed Terms for Construction will take place on September 8, 2009;

2. The exchange of Patent L.R. 4-2 Preliminary Claim Constructions and Extrinsic Evidence will take place on September 29, 2009;

3. The exchange of Patent L.R. 4-3 Joint Claim Construction and Prehearing Statement will take place on October 16, 2009;

4. Letters in support of leave to file summary judgment motion (addressing whether the proposed motion is dictated solely by claim construction and no disputed issues of material fact; 5-page limit per party) will be due on October 16, 2009; and

5. Responsive letter(s) regarding leave to file summary judgment motion (3-page limit per party) will be due on October 23, 2009;

6. The completion of Patent L.R. 4-4 claim construction discovery will be on November 9, 2009;

7. The exchange of Patent L.R. 4-5(a) opening claim construction briefs (by CIEA as to the '055 patent and by Jackson as to the '173 patent) (and if applicable, combined with summary-judgment brief) will take place on November 20, 2009;

8. The exchange of Patent L.R. 4-5(b) responsive claim construction briefs (by Jackson as to the '055 patent and by CIEA as to the '173 patent) (and if applicable, combined with responsive summary-judgment brief) will take place on December 7, 2009;

9. The exchange of Patent L.R. 4-5(c) reply claim construction briefs (by CIEA as to the '055 patent and by Jackson as to the '173 patent) (and if applicable, combined with reply summary-judgment brief) will take place on December 16, 2009;

10. Technology tutorial (1.5 hours per party) will take place on January 26, 2010; and

11. Patent L.R. 4-6 Claim Construction Hearing (and if applicable, combined with summary-judgment hearing) will take place on January 26-27, 2010.

1 Dated: September 9, 2009

2 Respectfully submitted,

3 KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

4 By: /s/ Michael D. Lisi

5 Michael D. Lisi

6 Attorneys for Plaintiff

7 The Central Institute for Experimental Animals

8 Dated: September 9, 2009

9 Respectfully submitted,

10 WOLF, GREENFIELD & SACKS, P.C.

11 By: /s/ Michael N. Rader

12 Michael N. Rader

13 Attorneys for Defendant

14 The Jackson Laboratory

15 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

16 Dated 10/20/09

17 

18 The Honorable Ronald M. Whyte

19 United States District Judge

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 9th day of September, 2009, I caused a true and correct copy of the
3 foregoing:

4 **STIPULATION TO EXTEND TIME FOR THE EXCHANGE OF PROPOSED TERMS**
5 **FOR CONSTRUCTION AND OTHER UPCOMING DEADLINES**

6 to be served by email and first class mail upon the following counsel of record for Defendant:

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11 Michael A. Albert
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17 By: _____

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